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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,207	01/31/2002	William Pat Price	K35A0877	5665

35219 7590 01/28/2003

WESTERN DIGITAL TECHNOLOGIES, INC.
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EXAMINER

BORISSOV, IGOR N

ART UNIT PAPER NUMBER

3629

DATE MAILED: 01/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,207

Applicant(s)

PRICE ET AL.

Examiner

Igor Borissov

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hite et al. (U. S. 6,002,393) in view of Hamilton et al. (Pub. US 2002/0087973).

Hite et al. teach a system and method for delivering targeted advertisements to consumer using direct commands, comprising:

As per claims 1, 8, 15, 21, 25, 26 and 30,

- a. receiving a broadcast stream on a selected channel, the broadcast stream comprising a plurality of programming media segments and at least one rich media segment associated with the alternative presentation data being embedded within the plurality of programming media segments (column 11, lines 42-60);
- b. commencing presenting the at least one rich media segment on the selected channel (column 11, lines 42-60);
- c. displaying the alternative presentation data associated with the at least one rich media segment if presenting the at least one rich media segment on the selected channel is interrupted prior to completely presenting the at least one rich media segment on the selected channel (column 11, lines 42-60).

Hite et al. do not teach saving the alternative presentation data if presenting the at least one rich media segment on the selected channel is interrupted.

Hamilton et al. teach a system and method for inserting local signals during a delay period associated with the execution of a channel change command, comprising:

- immediately generating a signal to be displayed on TV upon detecting the channel change event (Abstract; [0032]; [0035]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hite et al. to include the step of saving the alternative presentation data if presenting the at least one rich media segment on the selected channel is interrupted because it would make viewing TV aesthetically pleasant by allowing to quickly display the saved image to eliminate unpleasant delay encountered during channels changing.

As per claim 2, Hite et al. teach said system and method comprising presenting the alternative presentation data (column 12, lines 9-16).

As per claims 3-5, Hite et al. teach said system and method wherein presenting the alternative presentation data occurs simultaneously with presenting of at least one of the programming media segments of the broadcast stream (column 12, lines 2-27).

As per claims 6-7, 9-10 and 11-12, Hamilton et al. teach said system and method, comprising:

- storing tracking information for the presenting of the alternative presentation data ([0040]);

- transmitting the tracking information for the presenting of the alternative presentation data for storage in a database ([0040]);

- storing tracking information for the presenting of the at least one rich media segment ([0040]);

- transmitting the tracking information for the presenting of the at least one rich media segment for storage in a database ([0040]);

- storing tracking information for the interruption of presenting of the at least one rich media segment ([0040]);

- transmitting the tracking information for the interruption of presenting of the at least one rich media segment for storage in a database ([0040]).

As per claims 13-14, Hamilton et al. teach said system and method wherein the alternative presentation data is the same or different as the at least one rich media segment ([0040], [0041], [0042]).

As per claim 16, Hamilton et al. teach said system and method wherein an expiration time is stored with the alternative presentation data, and wherein the alternative presentation data is discarded if the alternative presentation data is not present prior to the expiration time ([0040], [0041], [0042]).

As per claims 17, 22 and 27, Hite et al. teach said system and method wherein the alternative presentation data is stored on a hard disk drive (column 12, lines 40-45).

As per claims 18, 23-24 and 28-29, Hamilton et al. teach said system and method wherein presenting of the at least one rich media segment is interrupted if a user changes from the selected channel to a different channel ([0040]).

As per claims 19 and 20, Hamilton et al. teach said system and method wherein the at least one rich media segment comprises video or audio data ([0041]).

Response to Arguments

Applicant's arguments, filed 01/31/02, have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Hite et al. and Hamilton et al. teach delivering of advertisements during switching of channels.

In response to applicant's argument that Hite et al. and Hamilton et al. do not teach embedding the alternative presentation data within the programming segments, Examiner points out that Hite et al. and Hamilton et al. do teach this feature. Specifically, Hamilton et al. teach that "the signal is carried in the transport stream, and is decoded and buffered, ready for immediate display at the delay event" ([0014]; [0015] and [0016]). Also, See Hite et al.; column 11, lines 42-60 and discussion above.

In response to applicant's argument that Hite et al. and Hamilton et al. do not teach presenting the alternative presentation data simultaneously with the presenting of the programming media segments, Examiner stipulates that this feature is well known and shown in Tomsen (US 2002/0056109) ([0022];[0035]; [0038]), which is listed as pertinent prior art in the form PTO-892 in the First Office Action.

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Applicant's attention is directed to the fact that it is applicant's responsibility to consider fully each reference, cited by the Examiner, as potential teaching of all or part of the claimed invention.

This action is made final.

Conclusion

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308- 2702.

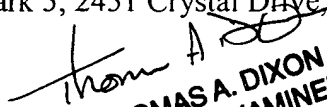
Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks
Washington D.C. 20231***

or faxed to:

(703) 305-7687 [Official communications; including
After Final communications labeled
"Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


**THOMAS A. DIXON
PRIMARY EXAMINER**